



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466

<http://www.epa.gov/region08>

NOV 22 2005

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

C. Edward Webster, II, Registered Agent
Painter Outpost, LLC
1226 11th Street
Cody, WY 82414

Re: Administrative Order
Docket No. SDWA-08-2006-0005
PWS ID #5601552

Dear Mr. Webster:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Painter Outpost, LLC ("Outpost") is a supplier of water as defined by the SDWA and has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.201, 141.21(g)(2) and 141.31(b) for: failure to monitor for bacteriological quality, failure to provide public notice of all violations, and for failure to report SDWA violations to EPA.

If the Outpost complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that any business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

A brochure entitled "Funding Options for Privately-Owned Public Water Systems in Wyoming" is also enclosed.

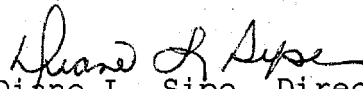


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Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Kathelene Brainich at the address on the letterhead, including the mailcode 8ENF-W. Her telephone number is (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have in informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please ask your attorney to direct any legal questions to Peggy Livingston, Enforcement attorney, at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,


Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
SBREFA
Funding Brochure

cc: Lee Mackler, Painter Outpost, LLC
WY DEQ (via email)
WY DOH (via email)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Park County Commissioners
c/o Tim French, Chair
1002 Sheridan Avenue
Cody, WY 82414

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Painter Outpost, PWS ID 5601552

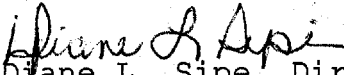
Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Painter Outpost, LLC, owner and/or operator of a public water system (System) in Cody, Wyoming. This Order requires that the System take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.21, 141.201, 141.21(g)(2) and 141.31(b) for: failure to monitor for bacteriological quality, failure to provide public notice of violations, and for failure to report SDWA violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,


Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



Printed on Recycled Paper

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2005 NOV 22 AM 8:29

IN THE MATTER OF)

Painter Outpost)
Cody, Wyoming)

Respondent)

Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))

FILED
EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2006-0005

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Painter Outpost, LLC (Respondent) is a corporation under the laws of the State of Delaware as of February 6, 2004 and is therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Painter Outpost Water System (the System), located in Park County, Wyoming for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals

daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. part 141, also known as the National Primary Drinking Water Regulations (NPDWRs).
5. According to a September 1, 2005 sanitary survey by an agent for EPA, the System is supplied by a groundwater source consisting of one well with no treatment. The System was identified by EPA as a public water system on April 12, 2004 and serves approximately 55 persons through 1 service connection and is operational all year.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires any non-community public water system with an average daily population of less

than 1,001 and having a groundwater source to monitor its water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 2nd (April-June) quarter of 2005 and the 3rd (July-September) quarter of 2004, in violation of 40 C.F.R. § 141.21.

II.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations, including violations of any MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondent has not provided public notice of the 3rd quarter 2004 noncompliance detailed in the preceding Section I, in violation of 40 C.F.R. § 141.201. Public notice is not yet past due for the 2nd quarter 2005 violation. A public notice completed September 28, 2005 for failure to monitor total coliform bacteria was for January-March 2005, which is the incorrect quarter.

III.

1. 40 C.F.R. § 141.21(g) (2) requires any public water system that has failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g) (2).

IV.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Section II, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring. Respondent shall report analytical results to EPA within the first 10

days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

2. Within 30 days from the effective date of this Order, Respondent must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205 for the violations specified under the Findings of Violation in this Order. Specifically, Respondent must provide public notice in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of

- the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).
3. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after Respondent discovers the violation.
 4. Except where a different reporting period is specified in paragraph 3 above, upon the effective date of this Order Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
 5. Reporting requirements specified in this Order shall be provided by certified mail to:

U.S. EPA Region 8 (8P-W-MS)
999 18th Street, Suite 300
Denver, CO 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondents to an administrative civil penalty of up to

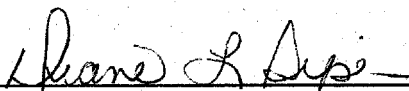
\$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).

3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondents to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 22nd day of November, 2005.



Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



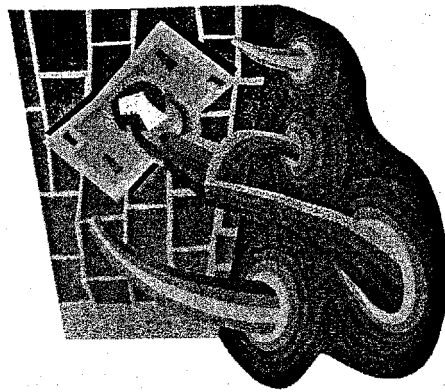
Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

WYOMING
WATER/WASTEWATER
TASK FORCE

Governor Jim Geringer established the Wyoming Water/Wastewater Task Force in 2001 as an interagency effort to reduce the likelihood of waterborne disease outbreaks in Wyoming. Government agencies represented on the Task Force include the Wyoming Department of Agriculture, Wyoming Department of Health, Wyoming Department of Environmental Quality, several county health departments, and the U.S. Environmental Protection Agency.



FUNDING OPTIONS
FOR
PRIVATELY-OWNED
PUBLIC WATER
SYSTEMS IN
WYOMING





Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers:
www.epa.gov/clearinghouse

Pollution Prevention Clearinghouse
www.epa.gov/opptintr/library/ppicindex.htm

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
www.epa.gov

Small Business Assistance Program
www.epa.gov/ttn/sbap

Compliance Assistance Home Page
www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance
www.epa.gov/compliance

Small Business Ombudsman
www.epa.gov/sbo

Innovative Programs for Environmental Performance
www.epa.gov/partners

